

# The Commonwealth of Massachusetts

# DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

D.T.E. 06-63 August 30, 2006

Petition of Commonwealth Electric Company d/b/a NSTAR Electric for approval by the Department of Telecommunications and Energy, pursuant to G.L. c. 164, § 94A and 220 C.M.R. § 8.00 et seq., for approval of amended power purchase agreements between Commonwealth Electric Company and SEMASS Partnership.

#### PROCEDURAL NOTICE

# I. PROCEDURAL SCHEDULE

On August 29, 2006, the Department of Telecommunications and Energy ("Department") held a public hearing and procedural conference in D.T.E. 06-63. The Department established the following procedural schedule:

All discovery issued September 6, 2006

All discovery received September 20, 2006

Evidentiary Hearing September 29, 2006

Initial Briefs due October 13, 2006

Reply Briefs due (if necessary) October 18, 2006

### II. SERVICE LIST

David S. Rosenzweig, Esq.

Keegan Werlin, LLP

265 Franklin Street

Boston, MA 02110-3113

Telephone 617-951-1400 Facsimile 617-951-0586

e-mail <u>drosen@keeganwerlin.com</u>

FOR: Commonwealth Electric Company d/b/a NSTAR Electric

<u>Petitioner</u>

Thomas F. Reilly, Attorney General

By: Colleen McConnell Assistant Attorney General

One Ashburton Place

Boston, Massachusetts 02108

Telephone 617-727-2200 ext. 2408

Facsimile 617-727-1047

email colleen.mcconnell@ago.state.ma.us

<u>Intervenor</u>

John J. Keene, Jr., Hearing Officer

Massachusetts Department of Telecommunications and Energy

One South Station, 2<sup>nd</sup> Floor

Boston MA 02110

Telephone 617-305-3624 Facsimile 617-345-9103

e-mail john.j.keene@state.ma.us

John Cope Flanagan, Assistant General Counsel

Massachusetts Department of Telecommunications and Energy

One South Station, 2<sup>nd</sup> Floor

Boston MA 02110

Telephone 617-305-3615 Facsimile 617-345-9103

e-mail john.cope-flanagan@state.ma.us

Steven Crowley, Analyst, Rates Division

Massachusetts Department of Telecommunications and Energy

One South Station, 2<sup>nd</sup> Floor

Boston MA 02110

Telephone 617-305-3755 Facsimile 617-443-1117

e-mail <u>steven.crowley@state.ma.us</u>

Claude Francisco, Analyst, Rates Division

Massachusetts Department of Telecommunications and Energy

One South Station, 2<sup>nd</sup> Floor

Boston MA 02110

Telephone 617-305-3665 Facsimile 617-443-1117

e-mail claude.francisco@state.ma.us

Marilyn Ross, Analyst, Electric Power Division Massachusetts Department of Telecommunications and Energy One South Station, 2<sup>nd</sup> Floor

Boston MA 02110

Telephone 617-305-3730 Facsimile 617-443-1115

e-mail marilyn.d.ross@state.ma.us

Mary L. Cottrell, Secretary Massachusetts Department of Telecommunications and Energy One South Station, 2<sup>nd</sup> Floor Boston MA 02110

Telephone 617-305-3500 Facsimile 617-345-9101

e-mail <u>mary.cottrell@state.ma.us</u>

dte.efiling@state.ma.us

# III. GROUND RULES

This proceeding shall be conducted in accordance with the provisions of G.L. c. 30A and 220 C.M.R. §§ 1.00 et seq., the Procedural Rules of the Department. In addition, the following ground rules shall supplement the Department's procedural rules in the conduct of this proceeding.

# A. Filing of Documents

# 1. Address of Filings

The original of all filings must be filed with Mary L. Cottrell, Secretary, Department of Telecommunications and Energy, One South Station, Second Floor, Boston, Massachusetts, 02110. The original must be filed with the Department by 5:00 p.m. on the applicable due date.

# 2. Format

All discovery documents filed with the Department shall be accurately punched to fit a standard three-hole binder. All documents shall be accompanied by a cover letter describing the filing and noting the distribution of copies.

Responses to information requests shall contain the following information: (1) set and question number; (2) recitation of request; and (3) identity of person who will support the response.

#### 3. Number of Copies

The Department requires documents to be filed in the following manner:

One (1) original addressed to Mary L. Cottrell,

Two (2) copies submitted to the hearing officer, and

One (1) copy submitted to each Department staff member listed on the current distribution list.

# 4. <u>Electronic Filing</u>

Copies of all nonproprietary documents that are filed with the Department must also be submitted to the Department in electronic format using one of the following methods: (1) by e-mail attachment to <a href="mailto:dte.efiling@state.ma.us">dte.efiling@state.ma.us</a> and <a href="mailto:john.j.keene@state.ma.us">john.j.keene@state.ma.us</a>; or (2) on a 3.5" floppy disk or CD-ROM. The text of the e-mail or the disk label must specify: (1) an easily identifiable case caption, (2) docket number, D.T.E. 06-63, (3) name of the party submitting the filing, and (4) title of the document. The electronic filing should also include the name, title, and phone number of a person to contact in the event of questions about the filing. Electronic copies should be written as either Word Perfect, Microsoft Word, or Adobe Acrobat compatible files. Data or spreadsheet responses should be compatible with Microsoft Excel. Documents submitted in electronic format will be posted on the Department's website, <a href="http://www.mass.gov/dte">http://www.mass.gov/dte</a>. Electronic copies must also be provided to all persons on the service list for this proceeding. Parties filing documents containing proprietary or other confidential materials shall submit electronic copies of the redacted public version of such documents. See rules on protected materials below.

#### B. Exchange of Materials

All documents filed with the Department shall also be served upon each party. Parties shall make arrangements for the expeditious exchange of materials, particularly discovery material, through the use of hand delivery, facsimile transmission ("fax"), e-mail, or other speedy means of delivery. Where material is exchanged by means of fax or other electronic means, a follow-up copy of the material must be delivered by mail or by hand. Service is effective upon receipt, not upon mailing. Fax or other means of electronic delivery are not substitutes for filing the original of materials that must be filed with Mary L. Cottrell, Secretary of the Department.

Where information requests are sent to a party by means of fax, the fax must be accompanied by telephone notification of the transmission. Failure to make prompt telephone notification may affect the deadline for response by the receiving party.

### C. Motions

Consistent with 220 C.M.R. § 1.04(5), any motion, unless made during a hearing, shall be made in writing. The moving party shall serve with the motion a statement of reasons, including the supporting authorities, why the motion should be granted. A statement of reasons may be included in the motion itself or may be contained in a separate document. Affidavits and other documents setting forth or evidencing facts on which the motion is based shall be served with the motion. A party opposing a motion may serve an opposition (1) within 7 days after service of a motion other than a motion for summary judgment, (2) 21 days after service of a motion for summary judgment, or (3) such additional time as is allowed by the Department upon a showing of good cause. With the opposition, the party may serve a statement of reasons, with supporting authorities, why the motion should not be allowed. Affidavits and other documents setting forth or evidencing facts on which the opposition is based shall be served with the opposition. Papers not served with the motion or opposition may be filed only with leave of the hearing officer.

# D. <u>Discovery</u>

### 1. Protected Materials

Where information or material is sought that is considered proprietary or protected by one party, the parties should discuss the use of a non-disclosure agreement before coming to the Department for protection or compelled submission. The Department will make a reasonable effort to extend protection where appropriate within the requirements of the law and in consideration of the policy interests regarding public access. <u>See</u> G.L. c. 25, § 5D; G.L. c. 66, § 10; G.L. c. 4, § 7, cl. twenty-sixth.

A party moving for confidential treatment must submit its request in writing and state the reasons therefor. The party seeking such treatment has the burden to demonstrate that the materials should be afforded the treatment requested in light of the presumption that such information is a public record. Even where a party proves such need for confidential treatment, the Department may protect only so much of that information as is necessary to meet the established need and may limit the term or length of time such protection will be in effect.

Any request for confidential treatment must include, in a sealed envelope, one unredacted copy of the materials for which protection is sought, clearly marked with the words "CONFIDENTIAL" on the outside envelope as well as on each page of the materials. Electronic copies of unredacted materials should be submitted on a 3.5" floppy disk or

CD-ROM labeled "CONFIDENTIAL." The unredacted copy should be submitted directly to the hearing officer, not to the Secretary. A redacted copy of the materials (marked as such) for the public docket should be filed with the Department along with the request for confidential treatment. Unredacted Materials submitted without a Motion filed with the materials or previously on file with the Department will NOT be afforded protective treatment.

# 2. Discovery Disputes

Counsel for each of the parties shall confer in advance of filing any discovery motion in a good faith effort to narrow areas of disagreement to the fullest possible extent. Counsel for the party who intends to file the motion shall be responsible for initiating the conference. All such motions shall contain a certificate stating that the conference was held, together with the date and time of the conference and the names of all participating parties. Motions unaccompanied by such certificate will be denied without prejudice.

All motions arising out of a party's response to, or asserted failure to comply with, an information or record request, shall be accompanied by a brief. With respect to each request for proprietary treatment or other information/record request at issue, the brief shall set forth separately and in the following order: (1) the text of the request, (2) the opponent's response, and (3) a specific legal and factual argument.

These ground rules are deemed consistent with the orderly conduct of this proceeding. Exceptions to any ground rule may be allowed by the hearing officer for good cause shown.

John J. Keene, Jr., Hearing Officer

cc: Mary L. Cottrell, Secretary
Service List (via e-mail and regular mail)